



Paper No. 8

SMART & BIGGAR
Suite 1500, Box 111
438 University Avenue
Toronto, Canada M5G 2K8

COPY MAILED

AUG 29 2002

In re Application of
Gail Huang
Application No. 10/025,981
Filed: December 26, 2001
Attorney Docket Number: 91436-349

OFFICE OF PETITIONS

**DECISION REFUSING STATUS
UNDER 37 C.F.R. §1.47(b)**

This is in response to the petition under 37 C.F.R. §1.47(b), filed May 3, 2002.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on December 26, 2001, without an executed oath or declaration, and naming Gail Huang as the sole inventor. Accordingly, on February 5, 2002, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit for the purposes of this decision an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed a one (1) month extension of time, the instant petition and fee and the surcharge for late filing of the declaration. Accompanying the petition is the employment document of inventor Huang, name change documents of Nortel Limited and a correspondence from inventor Huang.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide item (2).

As to item (2), rule 47 applicant submitted the \$130 surcharge fee for the submission of a late oath or declaration. Applicant failed to submit an executed oath or declaration with the petition. The granting of 47 status requires a rule 47 (b) applicant to make the oath required by 37 CFR §1.63 and §1.64. Where applicant is a corporation, an officer of the corporation normally is required to sign the oath or declaration. The declaration must state the full name, residence, post office address, and citizenship of the non-signing inventor. The title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to Petitions Attorney
Charlema R. Grant at (703) 305-0309.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan for".

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy